

IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

LYNDSEY LONG,

Civil Action File No.

Plaintiff,

v.

WAL-MART STORES EAST, LP,

Defendant.

_____ /

NOTICE OF REMOVAL

COMES NOW WAL-MART STORES EAST, LP, named Defendant in the above-captioned matter, by and through its counsel of record, within the time prescribed by law, and files this Notice of Removal, showing the Court as follows:

1.

The above-named Plaintiff filed suit against Defendant WAL-MART STORES EAST, LP in the State Court of DeKalb County, Georgia, which is within the Atlanta Division of this Court. 28 U.S.C.A. § 90 (a)(2). Said lawsuit is styled as above and is numbered as Civil Action File No. 20A83681. Plaintiff's claims against Defendant includes claims of negligence.

2.

Plaintiff filed the Complaint on or about December 1, 2020. Defendant WAL-MART STORES EAST, LP received service of summons and a copy of the Complaint

on December 14, 2020. Defendant WAL-MART STORES EAST, LP files this notice of Removal within thirty (30) days after receipt of Plaintiff's January 20, 2021, Responses to Defendant's First Interrogatories and Request for Production of Documents, wherein Defendant was informed that Plaintiff had undergone a knee arthroscopic surgery on October 22, 2020 to repair of a right knee medial and lateral meniscal tears. Partial medical bills, excluding unidentified surgical fees, total \$20,248. (Operative Report is attached as Exhibit "A" and Plaintiff's Response to Interrogatory 1, showing partial expenses, is attached as Exhibit "B").

3.

Defendant WAL-MART STORES EAST, LP is a Delaware limited partnership, of which WSE Management, LLC is the only general partner, and WSE Investment, LLC is the only limited partner. The sole member of WSE Management, LLC and of WSE Investment, LLC is Wal-Mart Stores East, LLC, and the sole member of Wal-Mart Stores East, LLC is Walmart Inc. Walmart Inc. is a Delaware corporation with its principal place of business in the State of Arkansas, and it was not a citizen of the State of Georgia at the time of or immediately prior to the filing and service of this lawsuit or at any time thereafter. The principal place of business for all entities mentioned in this paragraph is 708 SW 8th Street, Bentonville, AR 72716.

4.

Lyndsey Long is a citizen of the State of Georgia.

5.

Complete diversity of citizenship exists between Plaintiff and Defendant.

6.

Plaintiff claims injuries to her right knee, including surgery on October 22, 2020, and claiming partial medical bills, excluding unidentified surgical fees, total \$20,248. See Lowery v. Alabama Power Co., 483 F.3d 1184, 1262 n.62 (11th Cir. 2007) (quoting 28 U.S.C. § 1446(b)); Addo v. Globe Life & Accident Ins. Co., 230 F.3d 759, 761–62 (5th Cir.2000); Williams v. Safeco Ins. Co., 74 F.Supp.2d 925, 929 (W.D.Mo.1999); Southern Ins. Co. of Virginia v. Karrer, Civil Action No. 3:10-CV-84 (CAR), 2011 Westlaw 1100030 (M.D.Ga. Mar. 22, 2011); Golden Apple Management Co. v. Geac Computers, Inc., 990 F.Supp. 1364, 1368 (M.D.Ala. 1998); Jackson v. Select Portfolio Servicing, 651 F.Supp.2d 1279, 1281 (S.D.Ala. 2009); Barlow v. Variety Wholesalers, Civil Action No. 5:14-CV-375 (WLS) (M.D.Ga. Dec. 17, 2014); Devezin v. Wal-Mart Stores East, LP, Civil Action No. 1:134-CV-3721 (CAP) (N.D.Ga. February 20, 2015); Peterman v. Wal-Mart Stores, Civil Action No. 1:13-cv-91 (WLS), 2013 Westlaw 5210188 (M.D.Ga. Sept. 13, 2013); Farley v. Variety Wholesalers, Civil Action No. 5:13-CV-52 (CAR), 2013 Westlaw 1748608 (M.D.Ga. April 23, 2013);

Streicher v. Sam's East, Inc., Civil Action File No. CV419-01(WTM) (S.D. Ga March 4, 2019). The amount in controversy, exclusive of interest and costs, exceeds \$75,000.

7.

This action is removable pursuant to 28 U.S.C. §§ 1332, 1441, based on complete diversity of citizenship between Plaintiff and Defendant.

8.

Pursuant to the provisions of 28 U.S.C. § 1446, Defendant has attached as Exhibit "C" copies of all the pleadings that were provided to and served upon Defendant, including copies of all pleadings that have been filed to date in the State Court of Dekalb County, Georgia for the above-styled case.

9.

Pursuant to 28 U.S.C. § 1446, Defendant is not required to file a removal bond.

10.

Written notice of the filing of this Notice of Removal will be given to all parties as required by 28 U.S.C. § 1446.

11.

A true and correct copy of this Notice of Removal will be filed with the Clerk of the State Court of Dekalb County, Georgia, as required by 28 U.S.C. § 1446.

WHEREFORE, Defendant WAL-MART STORES EAST, LP prays that the above-captioned lawsuit be removed to the United States District Court for the Northern District of Georgia, Atlanta Division.

/s/ Jennie Rogers

Jennie Rogers
Georgia Bar No. 612725
Attorneys for Defendant
WAL-MART STORES EAST, LP

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The undersigned counsel certifies that the foregoing Notice of Removal has been prepared with one of the font and point selections approved by the court in LR 5.1B.

/s/ Jennie Rogers

Jennie Rogers

CERTIFICATE OF SERVICE

This is to certify that on February 12, 2021, I electronically filed a **NOTICE OF REMOVAL** with the Clerk of Court using the CM/ECF system which will automatically send email notification of such filing to attorneys of record.

McLAIN & MERRITT, P.C.

/s/ Jennie Rogers

Jennie Rogers
Georgia Bar No. 612725
Attorneys for Defendant
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